

## Disciplinary and Other NASD Actions

### REPORTED FOR JUNE

NASD® has taken disciplinary actions against the following firms and individuals for violations of NASD rules; federal securities laws, rules, and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB). The information relating to matters contained in this Notice is current as of the end of April 2007.

### Firms Expelled, Individuals Sanctioned

**Blacklake Securities Corporation (CRD #104128, New York, New York) and Wesley Arthur Bennett Jr. (CRD #2254995, Registered Principal, Jersey City, New Jersey).** The firm was expelled from NASD membership and Bennett was barred from association with any NASD member in any capacity. The sanctions were based on findings that the firm, acting through Bennett, engaged in proprietary trades that required a higher minimum net capital and failed to file the required application, and receive NASD approval, to change the membership agreement under SEC Rule 15c3-1 before engaging in the proprietary trades. The findings stated that the firm, acting through Bennett, failed to report statistical and summary information regarding customer complaints. The findings also stated that Bennett willfully failed to timely amend his Uniform Application for Securities Industry Registration or Transfer (Form U4) to disclose material facts. (NASD Case #E102004005702)

**Donner Corporation International nka National Capital Securities, Inc. (CRD #37702, Oklahoma City, Oklahoma), Jeffrey Lyle Baclet (CRD #2022409, Registered Principal, Santa Ana, California), Paul Alan Runyon (CRD #3159920, Registered Representative, Lake Forest, California).** The firm was expelled from NASD membership and Baclet was barred from association with any NASD member in any capacity. Runyon was fined \$20,000, suspended from association with any NASD member in any capacity for six months, and required to requalify by exam as a general securities representative and a general securities principal. The United States Securities and Exchange Commission (SEC) imposed the sanctions following appeal of a National Adjudicatory Council (NAC) decision. The sanctions were based on findings that the firm, acting through Baclet, issued research reports on companies whose stock traded below \$5 per share that failed to disclose material information and contained misleading, exaggerated and false statements. The findings stated that the firm and Baclet failed to disclose that the firm had received compensation for the preparation and issuance of research reports on the issuers' behalf. The findings also stated that the firm, through Baclet, failed to obtain signed approval of research reports

prior to their dissemination. The findings also included that the firm and Baclet failed to establish, maintain and enforce adequate written supervisory procedures reasonably designed to achieve compliance with applicable securities laws and NASD rules concerning the preparation and issuance of research reports. NASD found that Runyon issued research reports that contained material misstatements and omissions.

Runyon's suspension in any capacity is in effect from May 7, 2007, through November 6, 2007. **(NASD Case #CAF20020048)**

## **Firms and Individuals Fined**

**Anderson & Strudwick, Incorporated (CRD #48, Richmond, Virginia) and Bradley Allan Brown (CRD #3097139, Registered Principal, Richmond, Virginia)** submitted a Letter of Acceptance, Waiver and Consent in which they were censured and fined \$5,000, jointly and severally. An additional \$12,500 fine was imposed against the firm, and Brown was fined an additional \$5,000. Without admitting or denying the findings, the firm and Brown consented to the described sanctions and to the entry of findings that the firm failed to timely report municipal securities transactions to the MSRB. The findings stated that in contravention of NASD Rule 2711(g)(3) trading restrictions in a "research analyst account," Brown effected securities transactions in accounts he owned, each of which involved securities issued by a company he followed as a research analyst. The findings also stated that the transactions were inconsistent with his recommendations as reflected in his most recent research report his member firm published. The findings also included that the firm and Brown issued research reports that did not include either price charts and price target disclosures or information required by Rule 2711(h)(6) and (7), or information directing readers in a clear manner where they could obtain applicable current disclosures in written or electronic format, and issued one firm research report that failed to include price charts and price target disclosures. NASD found that the firm failed to establish, maintain and enforce written supervisory procedures reasonably designed to achieve compliance with its trade reporting obligations and failed, in certain respects, to implement and adequately enforce its written supervisory procedures relating to NASD Rule 2711(h). **(NASD Case #2006003775301)**

**Bathgate Capital Partners LLC (CRD #38923, Greenwood Village, Colorado) and Steven Charles Signer (CRD #719368, Registered Principal, Boulder, Colorado)** submitted Letters of Acceptance, Waiver and Consent in which the firm was censured and fined \$50,000, and Signer was censured and fined \$15,000. Without admitting or denying the findings, the firm and Signer consented to the described sanctions and to the entry of findings that Signer sent and received electronic correspondence related to the firm's securities business using his own email provider and failed to copy the firm on all email communications as required by the firm's procedures. The findings stated that the firm failed to retain and preserve all of Signer's business-related email and to preserve all of it in a non-erasable and non-rewritable format. The findings also stated that the firm's supervisory systems and procedures were not reasonably designed to achieve compliance with SEC Rule 17a-4 since they did not adequately provide for capturing, retaining and preserving Signer's business-related emails when he failed to copy or forward them to the firm. The findings also included that the firm failed to conduct an annual inspection of Signer's branch office pursuant to NASD Rule 3010(c) and its own written procedures. **(NASD Cases #E3A2005002701/E3A2005002702)**

## **Firms Fined**

**ACAP Financial Inc. (CRD #7731, Salt Lake City, Utah)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$20,000 and required to revise its written supervisory procedures concerning trade reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit to the OTC Reporting Facility last sale reports of transactions in OTC equity securities, and failed to designate to the OTC Reporting Facility that some of the reports were late. The findings stated that the firm incorrectly designated to the OTC Reporting Facility last sale reports of transactions in OTC equity securities reported to the OTC Reporting Facility within 90 seconds of execution as ".SLD". The findings also stated that the firm failed to transmit through the OTC Reporting Facility last sale reports of transactions executed outside normal market hours in OTC equity securities and failed to designate them as ".T". The

findings also included that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules concerning trade reporting, and failed to enforce its written supervisory procedures that specified that the head of trading was to indicate his review of trade reporting by initialing and dating the reviewed order tickets. **(NASD Case #20060041582-01)**

**A.G. Edwards & Sons, Inc. (CRD #4, St. Louis, Missouri)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$17,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that, in transactions for or with a public customer, the firm failed to use reasonable diligence to ascertain the best inter-dealer market, and failed to buy or sell in such market so that the resultant price to its customer was as favorable as possible under prevailing market conditions. The findings stated that the firm failed to report to the NASDAQ Market Center (NMC) the correct symbol indicating whether transactions were buy, sell, sell short, sell short exempt or cross for transactions in eligible securities. **(NASD Case #20050010270-01)**

**Cabrera Capital Markets, Inc. nka Cabrera Capital Markets, LLC (CRD #10081, Chicago, Illinois)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$23,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it used the mails or other means or instrumentalities of interstate commerce to effect transactions in securities when it failed to maintain the minimum required net capital. The findings stated that the firm prepared inaccurate net capital computations and filed inaccurate Financial and Operational Combined Uniform Single (FOCUS) IIA Reports with NASD, in that the reports overstated the firm's net capital. The findings also stated that the firm failed to give notice to the SEC on the same day that its net capital declined below the minimum amount required pursuant to SEC Rule 15c3-1. The findings also included that the firm failed to report transactions in TRACE-eligible securities to the Trade Reporting and Compliance Engine (TRACE) within 15 minutes of the execution time; reported trades already reported or there was no order ticket in connection with the reported trade; and transactions were reported with an

incorrect execution time. NASD found that the firm failed to timely report municipal securities transactions to the MSRB. **(NASD Case #2006003849301)**

**Coker & Palmer (CRD #29163, Jackson, Mississippi)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it issued research reports that (i) did not contain any disclosures concerning the risks that might impede achievement of a price target; (ii) contained price target-risk disclosures, but such disclosures were not presented in the required form; and/or (iii) failed to disclose the percentage of all securities the firm rated to which it had assigned a buy, hold or sell rating, and the percentage of companies within each category for which the firm had provided investment banking services within the preceding twelve-month period. **(NASD Case #2006003761701)**

**ING Financial Partners, Inc. (CRD #2882, Des Moines, Iowa)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to promptly forward checks processed with application way purchase transactions to issuers or to return checks to the public customers. The findings stated that the firm's failure to promptly forward or return checks caused the firm to fail to comply with the requirements of the exemption in SEC Rule 15c3-3(k)(2)(ii), making the firm fully subject to the requirements of SEC Rule 15c3-3. The findings also stated that because the firm was operating under an exemption to the rule, it did not meet all the requirements of the rule including the requirement to maintain a Special Reserve Account for the Exclusive Benefit of Customers. **(NASD Case #20060039805-01)**

**Kaufman Bros., L.P. (CRD #37909, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$22,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to submit to the Trade Reporting Facility and to NASDAQ, for the offsetting "riskless" portion of "riskless" principal transactions in designated securities, either a clearing-only report with a capacity indicator of "riskless principal" or a "non-

tape," non-clearing report with a capacity indicator of "riskless principal," and the firm double-reported some riskless principal transactions. The findings stated that the firm failed to correctly report sale transactions to the Automated Confirmation Transaction Service (ACT) as long, short or short exempt, and failed to report a transaction to ACT. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws, regulations, and NASD rules concerning order handling, best execution, anti-intimidation and coordination, trade reporting, sales transactions, the Order Audit Trail System (OATS), and books and records. **(NASD Case #20060055147-01)**

**McMahan Securities Co. L.P. (CRD #22123, Greenwich, Connecticut)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$30,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report to TRACE the correct trade execution time for transactions in TRACE-eligible securities and failed to timely report transactions in TRACE-eligible securities executed on a business day during TRACE system hours. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws, regulations and NASD rules concerning TRACE reporting. **(NASD Case #20050001832-01)**

**Meyers Associates, L.P. (CRD #34171, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it conducted a municipal securities business and executed municipal securities transactions without employing a properly registered municipal securities principal to supervise the firm's municipal securities activities. **(NASD Case #E102003044103)**

**Newbridge Securities Corp. (CRD #104065, Fort Lauderdale, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$70,000 and required to revise its written supervisory procedures concerning best execution, trade reporting, short sales and recordkeeping. Without

admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to accept or decline transactions in eligible securities in the NMC within 20 minutes after execution that the firm had an obligation to accept or decline in the NMC as the order entry identifier (OEID). The findings stated that the firm failed to execute orders fully and promptly; failed to show the terms and conditions, entry time, correct entry time, correct execution time and execution time on brokerage order memoranda. The findings also stated that the firm failed to report to the NMC the correct symbol indicating whether it executed transactions in eligible securities in a principal, riskless principal or agency capacity, and failed to report the correct unit price for transactions in eligible securities to the NMC. The findings also included that when the firm acted as principal for its own account, it failed to provide written notification disclosing to customers the correct reported trade price or that it was a market maker in the security.

NASD found that the firm made available a report on the covered orders in national market system securities it received for execution from any person. This report contained incorrect information as to the number of covered orders and cumulative number of shares of covered orders. NASD also found that the firm failed to make publicly available a report on its routing of non-directed orders in covered securities during a quarter in violation of SEC Rule 11Ac1-5 and SEC Rule 11Ac1-6, and failed to use reasonable diligence to ascertain the best inter-dealer market, and failed to buy or sell in such market so that the resultant price to its customers was as favorable as possible under prevailing market conditions.

In addition, NASD determined that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules concerning best execution, trade reporting, short sales and recordkeeping. Moreover, NASD found that the firm failed to enforce its written supervisory procedures that specified the firm would document reviews to ensure compliance with applicable securities laws, regulations and NASD rules concerning regular and rigorous reviews and the three quote rule. Furthermore, the findings stated that the firm executed riskless principal transactions in NASDAQ National Market (NNM) securities and incorrectly reported to the NMC that it

executed the transactions in an agency capacity instead of in a principal capacity without submitting separate clearing only or non-tape, non-clearing reports with capacity indicators of "riskless principal." In addition, the findings stated that the firm executed riskless principal transactions in SmallCap Market, NNM and Over-the-Counter (OTC) equity securities, and reported to the NMC that it executed the transactions in a principal-only or agency capacity instead of in a principal capacity without submitting separate clearing only or non-tape, non-clearing reports with capacity indicators of "riskless principal." The findings also stated that the firm failed to report to the NMC the correct symbol indicating if it executed transactions in eligible securities in a principal or agency capacity; failed to report whether transactions were buy, sell, sell short, sell short exempt or cross for transactions in eligible securities; and failed to report last sale reports of transactions in NASDAQ securities through the NMC or Trade Reporting and Comparison Service (TRACS). (NASD Case #20050000811-03)

**New York Global Securities, Inc. (CRD #46429, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$45,000 and suspended from issuing any research reports for six months. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it prepared and issued research reports to public customers that violated NASD rules governing the content and disclosures required for equity research reports and rules governing content standards for communications with the public. The findings stated that the reports failed to disclose the firm's actual, material conflicts of interest, the percentage of all securities rated by the firm to which it would assign a "buy," "hold/neutral" or "sell" rating, the risks that may impede the achievement of cited price targets. The firm also failed to provide clear and comprehensive disclosures, used appropriately conditional and/or indefinite language in disclosures, and failed to provide readers with a sound basis from which to evaluate a potential investment.

The suspension from issuing any research reports is in effect from May 7, 2007, through November 6, 2007. (NASD Case #E1020050319-01)

**Pacific Growth Equities, LLC (CRD #24835, San Francisco, California)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit last sale reports in NASDAQ securities to the NMC. The findings stated that the firm failed, within 90 seconds after execution, to transmit last sale reports in OTC equity securities to the OTC Reporting Facility. The findings also stated that the firm improperly reported a riskless principal trade or portion thereof as a principal trade; reported a principal trade or portion thereof as a riskless principal trade; failed to report the customer side (the second leg) of a riskless principal trade or improperly reported a trade with a .W modifier. The findings also included that the firm failed to report the correct symbol indicating whether the transaction was a buy, sell, sell short, sell short exempt or cross for transactions in eligible securities to the NMC. NASD found that the firm failed to report transactions to the NMC; submitted an inaccurate execution time; reported a principal trade as an agency trade and submitted a duplicate trade report. NASD also found that the firm failed to show the correct entry time on brokerage order memoranda and failed to maintain records pertaining to order cancellations. (NASD Case #20050017644-01)

**Raymond James Financial Services, Inc. (CRD #6694, St. Petersburg, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to record a registered representative's private securities transaction on its books and records pursuant to NASD Rule 3040. The findings stated that the firm failed to supervise the representative's participation in the transaction as if it were a firm transaction or in a manner reasonably designed to achieve compliance with the laws, rules and regulations that applied to the registered representative's activities. (NASD Case #2005001729502)

**Sigma Financial Corporation (CRD #14303, Ann Arbor, Michigan)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the

findings, the firm consented to the described sanctions and to the entry of findings that it engaged in the offering of unregistered securities in violation of Section 5 of the Securities Act of 1933. The findings stated that the firm failed to adequately and properly maintain a reasonable supervisory system and written procedures to require that investors solicited through advertisement, workshops or the firm's Web site were not offered securities that the firm was currently offering or contemplating offering at the time of the initial contact. (NASD Case #E8A2005026301)

**Stanford Group Company (CRD #39285, Houston, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that in connection with the firm's retail brokerage operations, it held customer funds without performing required reserve computations and making deposits into a special reserve bank account for the customers' exclusive benefit. The findings stated that the firm failed to establish and maintain a supervisory system reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules, in that it failed to provide each of its branch offices with copies of its written supervisory procedures or an equivalent document regarding the timely processing of customer checks. The findings also stated that the firm conducted a securities business while failing to maintain its required minimum net capital. (NASD Case #E062005005301)

**State Street Global Markets, LLC (CRD #30107, Boston, Massachusetts)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$100,000 and required to review its procedures regarding the preservation of electronic mail communications for compliance with NASD rules and federal securities laws and regulations. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to implement an adequate supervisory system and written procedures designed to ensure that all electronic communications relating to its business as a broker-dealer are captured and retained. The findings stated that the firm's supervisory system failed to provide for effective follow-up and review or other monitoring of instant message (IM) usage at the firm to ensure that all IM users had properly synchronized their

network login passwords and that all electronic communications were being retained. The findings also stated that the firm failed to maintain and retain all business-related IM communications its registered representatives sent and received. (NASD Case #2006003803901)

**Taglich Brothers, Inc. (CRD #29102, Huntington, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to enforce its written supervisory procedures requiring annual reviews of its fee-based retail customer brokerage accounts to review the appropriateness of the compensation structure for each customer and documentation of the reasons customers choose a fee-based account. (NASD Case #ELI2005004501)

**Trend Trader, LLC (CRD #43635, Scottsdale, Arizona)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$13,000 and required to revise its written supervisory procedures with respect to NASD Rules 3110 and 3370. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it accepted customer short sale orders in NASDAQ SmallCap securities and for each order, failed to annotate an affirmative determination that the firm would receive delivery of the security on the customer's behalf, or that the firm could borrow the security on the customer's behalf for delivery by settlement date. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with NASD Rules 3110 and 3370. (NASD Case #20050007852-01)

**White Pacific Securities, Inc. (CRD #42505, San Francisco, California)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$125,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that its anti-money laundering (AML) compliance program and written procedures were not reasonable designed to achieve and monitor compliance with the Bank Secrecy Act in the following areas: the AML compliance program as a whole was not "risk-based" when viewed in the context of the firm's business, and the geographic

locations of its customers and the procedures for monitoring accounts for suspicious activity were not reasonably designed to detect such activity in light of the nature of the firm's business and its customer base. The findings further stated that the firm failed to implement its AML compliance program, in that the procedures required annual training and no annual training was provided between April 2002 and September 2004, and the firm did not include all information required by the Bank Secrecy Act, the regulations promulgated thereunder and its AML procedures on documentation pertaining to wire transfers and other fund transmittals. The findings also stated that the firm failed to retain all electronic communications related to the firm's business and did not have a supervisory system or written procedures reasonably designed to detect and prevent failures to retain required communications. The findings also included that the firm's supervisory system and written supervisory procedures, and its enforcement thereof, were not reasonably designed to achieve compliance with applicable laws, rules and regulations regarding the payment of transaction-based compensation to foreign finders; compliance with the requirement to conduct an annual compliance interview with each registered representative; providing account records to customers when an account is opened and at specified intervals thereafter; compliance with SEC Rule 17a-3(a)(6) concerning the completeness of order memoranda; conducting required reviews for compliance with "best execution" requirements; marking order memoranda to identify discretionary transactions; and compliance with NASD rules pertaining to communications with the public in light of the various methods and languages the firm's representatives used in such communication.

NASD found that the firm paid transaction-related compensation to a foreign entity not registered as a broker-dealer and permitted its affiliated individuals who handled the referral business to function as firm representatives without registration. NASD also found that the firm met some, but not all, of the conditions in NASD Rule 1060(b) for such payments to be permissible. **(NASD Case #E0120040096-02)**

## Individuals Barred or Suspended

**James Wayne Alldredge (CRD #2621727, Registered Principal, Austin, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Alldredge consented to the described sanction and to the entry of findings that he borrowed money from public customers while registered with a member firm. The findings stated that Alldredge submitted false and misleading documentation to his member firm concerning variable annuity switch transactions, in which he concealed the fact that the funds for the new annuity purchase were the proceeds of the liquidation of an existing variable annuity, and failed to process the transactions as Section 1035 exchanges. The findings also stated that Alldredge failed to respond to an NASD request to give testimony. **(NASD Case #2006005317101)**

**Richard Michael Alvino (CRD #4256389, Registered Representative, San Diego, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for four months. The fine must be paid before Alvino reassociates with any NASD member following the four-month suspension, or before his firm requests relief from any statutory disqualification. Without admitting or denying the findings, Alvino consented to the described sanctions and to the entry of findings that he participated in a private securities transaction without prior written notice to his member firm. The findings stated that Alvino failed to amend his Form U4 to disclose material information.

The suspension in any capacity is in effect from May 7, 2007, through September 6, 2007. **(NASD Case #20050026837-01)**

**Michael Lawrence Baldwin (CRD #1966870, Registered Principal, Kansas City, Missouri)** submitted an Offer of Settlement in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for six months. Without admitting or denying the allegations, Baldwin consented to the described sanctions and to the entry of findings that he recommended and effected excessive and unsuitable transactions in a public customer's account without reasonable grounds for believing the

transactions were suitable in light of the customer's financial situation and needs. The findings stated that Baldwin, as a registered options principal for his member firm, failed to approve options tickets before they were submitted to the clearing firm for execution, and failed to ensure that options transactions were appropriate for the customer accounts.

The suspension in any capacity is in effect from May 7, 2007, through November 6, 2007. **(NASD Case #E0420030367-01)**

**Keith Anthony Bell (CRD #2210134, Registered Representative, Pembroke Pines, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for three months. The fine must be paid before Bell reassociates with any NASD member following the suspension, or before his firm requests relief from any statutory disqualification. Without admitting or denying the findings, Bell consented to the described sanctions and to the entry of findings that he willfully failed to disclose material information on his Forms U4.

The suspension in any capacity is in effect from May 7, 2007, through August 6, 2007. **(NASD Case #2006005179101)**

**Francis Bart Bertholic Jr. (CRD #1841812, Registered Principal, Liberty Lake, Washington)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Bertholic consented to the described sanction and to the entry of findings that he engaged in private securities transactions without prior notice to, or approval from, his member firm. The findings stated that Bertholic received \$435,000 from public customers to purchase a promissory note from which the proceeds were to be invested in real property or to maintain and improve real property and, instead, Bertholic used the funds for his personal benefit. The findings also stated that Bertholic published newspaper advertisements, a brochure and a flier, and developed a Web site that did not disclose his firm's name and were not approved by a registered principal of the firm. The findings also included that the brochure and Web site did not provide a balanced discussion of the risks involved in real estate lending; did not disclose risks and contained false, exaggerated, unwarranted and/or misleading

statements. NASD found that the Web site presented testimonials from purported customers who, in fact, had never transacted any business with Bertholic. **(NASD Case #2006004272701)**

**Christopher Joseph Carter (CRD #3024491, Registered Representative, Anthem, Arizona)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Carter consented to the described sanction and to the entry of findings that he failed to appear for and complete an NASD on-the-record interview. **(NASD Case #2005003341201)**

**Nancy Ky Cheng (CRD #2592401, Registered Representative, West Paterson, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$2,500 and suspended from association with any NASD member in any capacity for 20 business days. The fine must be paid before Cheng reassociates with any NASD member, or before her firm requests relief from any statutory disqualification. Without admitting or denying the findings, Cheng consented to the described sanctions and to the entry of findings that she engaged in an outside business activity without providing prompt written notice to her member firm.

The suspension in any capacity is in effect from May 21, 2007, through June 18, 2007. **(NASD Case #2006003840801)**

**Jacob Roman Chudzinski (CRD #1489143, Registered Representative, Freemont, Ohio)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Chudzinski consented to the described sanction and to the entry of findings that he received \$896,000 from public customers for investment purposes and instead, deposited the funds into an account under his control and converted the funds to his own use and benefit. **(NASD Case #2005002552101)**

**Carl Thomas Cirillo (CRD #1321207, Registered Representative, Huntington, New York)** submitted an Offer of Settlement in which he was fined \$12,000 and suspended from association with any NASD member in any capacity for 60 days. The fine will be

payable upon reassociation with any NASD member following the suspension. Without admitting or denying the allegations, Cirillo consented to the described sanctions and to the entry of findings that he employed fraudulent sales practices when, in a private placement, he recommended and sold to public customers units of a company that had minimal assets and no business operations and was owned and controlled by his family member. The findings stated that Cirillo guaranteed a customer against loss.

The suspension in any capacity is in effect from May 21, 2007, through July 19, 2007. **(NASD Case #20050000286-03)**

**Charles James Cuozzo Jr. (CRD #3123060, Registered Representative, Verona, New Jersey)** was fined \$5,000, suspended from association with any NASD member in any capacity for one year and required to requalify by exam as a general securities representative. The NAC imposed the sanctions following a call for review of a Hearing Panel decision issued by the Office of Hearing Officers (OHO). The sanctions were based on findings that Cuozzo falsified dates and information on numerous Regulation 60 annuity replacement forms and inserted a false statement on a public customer's Regulation 60 annuity replacement form, which resulted in the falsification of a firm document.

The suspension in any capacity is in effect from May 7, 2007, through May 6, 2008. **(NASD Case #C9B0050011)**

**Evan Kyle Davis (CRD #2995789, Registered Representative, Mableton, Georgia)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the findings, Davis consented to the described sanctions and to the entry of findings that he executed securities transactions in a public customer's account without the customer's prior knowledge, authorization or consent.

The suspension in any capacity was in effect from May 21, 2007, through June 4, 2007. **(NASD Case #2006007384001)**

**Joe Desoto (CRD #2879888, Associated Person, Kissimmee, Florida)** was barred from association with

any NASD member firm in any capacity. The sanction was based on findings that Desoto willfully failed to disclose material facts on his Form U4 and failed to respond to NASD requests for information. **(NASD Case #2006004240501)**

**Robert John Ellis (CRD #2671864, Registered Principal, Austin, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$56,650—which includes \$46,650 in disgorgement of commissions—and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Ellis reassociates with any NASD member following the suspension, or before his firm requests relief from any statutory disqualification. Without admitting or denying the findings, Ellis consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without providing prior written notice to, or receiving written approval from, his member firm describing in detail the proposed transactions, his role therein, and stating whether he had received or might receive selling compensation in connection with the transactions.

The suspension in any capacity is in effect from April 16, 2007, through April 15, 2008. **(NASD Case #2006003679801)**

**Jamin Marlowe Epstein (CRD #1897974, Registered Representative, Wexford, Pennsylvania)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Epstein made false representations regarding disbursements from public customers' variable annuity policies. The findings stated that Epstein failed to respond to NASD requests to provide testimony. **(NASD Case #2005003508101)**

**Ruben Guillermo Fernandez (CRD #206736, Registered Representative, Tucson, Arizona)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 10 business days. The fine must be paid before Fernandez reassociates with any NASD member following the suspension, or before his firm requests relief from any statutory disqualification. Without admitting or denying the findings, Fernandez consented to the described sanctions and to the entry of findings that he effected trades on a discretionary basis in public

customer accounts without prior written authorization from the customers to exercise discretion, and without obtaining his member firm's written acceptance of the accounts as discretionary.

The suspension in any capacity was in effect from May 21, 2007, through June 4, 2007. **(NASD Case #2006005614601)**

**Paul Elliott Katz (CRD #702523, Registered Representative, Houston, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the findings, Katz consented to the described sanctions and to the entry of findings that he effected securities transactions in public customers' accounts through the use of discretionary power without the customers' prior written authorization and without his member firm's acceptance in writing of the accounts as discretionary.

The suspension in any capacity was in effect from May 7, 2007, through May 18, 2007. **(NASD Case #2005002589901)**

**Alexis Casimir Korybut (CRD #2361771, Registered Principal, Coconut Grove, Florida)** submitted an Offer of Settlement in which he was fined \$25,000, suspended from association with any NASD member in any capacity for 15 business days and suspended from association with any NASD member in any principal capacity for 60 days. The fine must be paid before Korybut reassociates with any NASD member following the 15 business-day suspension in any capacity, or before his firm requests relief from any statutory disqualification. Without admitting or denying the allegations, Korybut consented to the described sanctions and to the entry of findings that, while acting on his member firm's behalf, he failed to ensure that his firm complied with an independent consultant's recommendations to remedy the deficiencies identified in the firm's prior NASD settlements. The findings stated that Korybut, while acting on his member firm's behalf, failed to implement the various procedures recommended in the consultant's reports; failed to establish and implement adequate systems and procedures for monitoring the activities of the firm's producing branch managers who approved account documentation and reviewed account activity and correspondence for their own customer accounts; failed

to designate a registered principal as an office of supervisory jurisdiction (OSJ) supervisor; failed to establish and implement procedures for monitoring activities such as excessive "cancels and rebills" that might serve as "red flags" for detecting possible unauthorized transactions; and failed to establish procedures in an OSJ for ensuring a registered principal reviewed outgoing and incoming branch correspondence.

The suspension in any capacity was in effect from May 7, 2007, through May 25, 2007. The suspension in any principal capacity is in effect from May 7, 2007, through July 5, 2007. **(NASD Case #E072004002301)**

**Darrell Craig Lerner (CRD #4525134, Registered Representative, Great Neck, New York)** submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Lerner consented to the described sanction and to the entry of findings that, while registered with his member firm, he did not conduct any firm business but parked his license with the firm. The findings stated that Lerner engaged in outside business activities and private securities transactions while his license was parked. The findings also stated that Lerner failed to disclose a material fact on his Form U4 and provided false testimony under oath during an NASD on-the-record interview. **(NASD Case #2005000440701)**

**Samuel Yungkong Liu (CRD #704382, Registered Representative, Honolulu, Hawaii)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Liu consented to the described sanction and to the entry of findings that he engaged in private securities transactions without prior written notice to, and prior written approval from, his member firm. The findings stated that Liu failed to appear for an NASD on-the-record testimony. **(NASD Case #2006005810101)**

**Woody Bernard Margozewitz (CRD #1722053, Registered Representative, Boerne, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for five business days. Without admitting or denying the findings, Margozewitz consented to the described sanctions and to the entry of findings that he effected discretionary

transactions in a public customer's account without the customer's prior written authorization to utilize discretion and without his member firm's prior written acceptance of the account as discretionary.

The suspension in any capacity was in effect from May 7, 2007, through May 11, 2007. **(NASD Case #E062003014001)**

**Erik Joseph Matz (CRD #2715303, Registered Representative, Hicksville, New Jersey)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Matz engaged in churning and excessive trading in public customer accounts. **(NASD Case #CLI20050014)**

**Phillip Earl Nelson (CRD #4157430, Registered Principal, Grovetown, Georgia)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for 60 days. The fine must be paid before Nelson reassociates with any NASD member following the suspension, or before his firm requests relief from any statutory disqualification. Without admitting or denying the findings, Nelson consented to the described sanctions and to the entry of findings that he submitted a handwritten note to a public customer in which he made a false, exaggerated, unwarranted and/or misleading claim and an impermissible performance prediction or projection regarding a variable annuity he recommended to the customer.

The suspension in any capacity is in effect from May 21, 2007, through July 19, 2007. **(NASD Case #2006004829701)**

**Fredric Joseph Palmieri (CRD #3221649, Registered Representative, Marlton, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Palmieri consented to the described sanction and to the entry of findings that he knowingly submitted a false claim to an insurance company requesting payment for the theft of his automobile when he was aware that the vehicle had not been stolen. **(NASD Case #2006005437501)**

**Christine Nicole Parma (CRD #4434674, Registered Representative, Portland, Oregon)** submitted a Letter of Acceptance, Waiver and Consent in which she was

fined \$10,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Parma reassociates with any NASD member following the suspension, or before her firm requests relief from any statutory disqualification. Without admitting or denying the findings, Parma consented to the described sanctions and to the entry of findings that she participated in a private securities transaction without prior written notice to, and approval from, her member firm.

The suspension in any capacity is in effect from May 21, 2007, through November 20, 2007. **(NASD Case #20060056070-01)**

**Tsewang Tenzing Pemba (CRD #1932236, Registered Representative, Sunnyside, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Pemba reassociates with any NASD member following the suspension, or before his firm requests relief from any statutory disqualification. Without admitting or denying the findings, Pemba consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing his member firm with written notice.

The suspension in any capacity is in effect from May 7, 2007, through November 6, 2007. **(NASD Case #2005001886602)**

**Michael James Resciniti (CRD #4006304, Registered Representative, Sound Beach, New York)** submitted an Offer of Settlement in which he was fined \$5,000, suspended from association with any NASD member in any capacity for 10 business days and required to pay \$10,842.03, plus interest, in restitution to a public customer. Without admitting or denying the allegations, Resciniti consented to the described sanctions and to the entry of findings that he effected, or caused to be effected, a series of transactions in a public customer's account without the customer's prior knowledge, authorization or consent.

The suspension in any capacity was in effect from May 21, 2007, through June 4, 2007. **(NASD Case #ELI20030562-01)**

**James Everett Robson Jr. (CRD #2456030, Registered Representative, Waxhaw, North Carolina)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Robson consented to the described sanction and to the entry of findings that he signed a deceased customer's name to multiple Individual Retirement Account (IRA) Distribution Request Forms and checks without the knowledge and consent of the customer or his widow. The findings stated that after forging the customer's signature, Robson made checks totaling approximately \$31,240 payable to himself and deposited the funds into his personal bank account without the customer's or his widow's knowledge or authorization, thereby converting the customer's funds. The findings also stated that Robson failed to respond to NASD requests for information. (NASD Case #2006005364001)

**James Young Shin (CRD #3192988, Registered Representative, Rosemount, Minnesota)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 business days. The fine must be paid before Shin reassociates with any NASD member following the suspension, or before his firm requests relief from any statutory disqualification. Without admitting or denying the findings, Shin consented to the described sanctions and to the entry of findings that he engaged in outside business activities for compensation and failed to provide prompt written notice to his member firm.

The suspension in any capacity was in effect from April 16, 2007, through May 25, 2007. (NASD Case #20060056863-01)

**Rufino T. Singson Sr. (CRD #2025299, Registered Representative, Hicksville, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Singson consented to the described sanction and to the entry of findings that he participated in private securities transactions without providing prior written notice to his member firm describing in detail the proposed transaction and his role therein. The findings also stated that Singson refused to respond to questions during an

NASD on-the-record interview. (NASD Case #2005001886601)

**Maureen Catherine Sullivan (CRD #2192738, Registered Representative, Chattanooga, Tennessee)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Sullivan willfully failed to disclose material information on her Form U4. The findings stated that Sullivan failed to respond to NASD requests to appear for an on-the-record interview. (NASD Case #2005002129901)

**Plase Michael Tansil (CRD #2317768, Registered Representative, Murfreesboro, Tennessee)** submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Tansil consented to the described sanction and to the entry of findings that he made an improper guarantee to public customers, misused customer funds to cover a shortfall regarding the guarantee, made material misrepresentations to customers that their funds would be used for investment purposes, and settled a customer complaint without his member firm's knowledge or consent. (NASD Case #2005002229201)

**Alison Esther Taylor (CRD #1871817, Registered Principal, McDonough, Georgia)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any NASD member in any principal capacity for 15 business days. Without admitting or denying the findings, Taylor consented to the described sanctions and to the entry of findings that she failed to reasonably and adequately supervise registered representatives who violated various provisions of NASD Rule 2210 and SEC Rule 482 in their communications with the public. The findings stated that Taylor approved some of the public communications. The findings also stated that Taylor failed to reasonably and adequately supervise a registered representative with respect to a customer complaint for a loss relating to an investment that the representative settled away from the firm, and Taylor failed to create a written record that there was a problem with the account or to follow-up with the representative prior to his decision to send a letter to the customer and make payment to the customer directly. The findings also included that neither Taylor

nor the representative notified the firm of the issue before payment was made and the letter was sent.

The suspension in any principal capacity was in effect from May 21, 2007, through June 11, 2007. (NASD Case #E0420040369-04)

**Marylan Katherine Taylor (CRD #2263196, Registered Representative, Aurora, Ohio)** was barred from associating with any NASD member in any capacity. The NAC imposed the sanction following appeal of an OHO decision. The sanction was based on findings that Taylor submitted falsified documents to the insurance division of a state regulator that represented that her insurance licenses were in good standing when in fact they were inactive due to her failure to complete continuing education. The findings also stated that Taylor failed to timely amend her Form U4 to disclose material information and that she failed to respond truthfully during an NASD on-the-record interview. (NASD Case #C8A20050027/E8B20030292)

**Steven John Windstein (CRD #5181082, Associated Person, West Chester, Pennsylvania)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for three months. The fine must be paid before Windstein reassociates with any NASD member following the suspension, or before his firm requests relief from any statutory disqualification. Without admitting or denying the findings, Windstein consented to the described sanctions and to the entry of findings that he willfully failed to disclose material information in his Form U4.

The suspension in any capacity is in effect from May 7, 2007, through August 6, 2007. (NASD Case #2006006320001)

**Terrance Yutaka Yoshikawa (CRD #474700, Registered Principal, Seattle, Washington)** was barred from association with any NASD member in any capacity. The SEC imposed the sanction following appeal of a NAC decision. The sanction was based on findings that Yoshikawa repeatedly engaged in manipulative trading practices that included trades fraudulently designed to improve the national best bid or offer (NBBO) price for the purpose of enabling Yoshikawa to obtain execution of orders on the opposite side of the market at the NBBO prices he created. (NASD Case #CMS020247/2004200000202)

## Individual Fined

**Arnold Ira Roseman (CRD #500276, Registered Principal, Boca Raton, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which he was censured and fined \$15,000. Without admitting or denying the findings, Roseman consented to the described sanctions and to the entry of findings that he failed to establish and maintain a supervisory system and written supervisory procedures reasonably designed to achieve compliance with his member firm's obligation to preserve electronic communications related to its business. The findings stated that Roseman failed to establish and maintain written supervisory procedures reasonably designed to achieve compliance with the firm's obligation to conduct an annual inspection of each OSJ, to supervise the activities of each registered representative, in that the firm's procedures did not address the circumstances that would warrant heightened supervision of a representative after the representative was hired, and to amend its registered persons' Forms U4 if the information previously provided became inaccurate. The findings also stated that Roseman did not evaluate and prioritize the firm's training needs or develop a training plan. (NASD Case #E072004005002)

## Decision Issued

The following decision has been issued by the OHO and has been appealed to or called for review by the NAC as of April 30, 2007. The NAC may increase, decrease, modify or reverse the findings and sanctions imposed in the decision. Initial decisions whose time for appeal has not yet expired will be reported in the next *Notices to Members*.

**Carl Martin Trevisan (CRD #715623, Registered Representative, Alexandria, Virginia)** and **Edward Martin VanGrouw (CRD #1032559, Registered Representative, Fairlawn, New Jersey)**. Trevisan was barred from association with any NASD member in any capacity. VanGrouw was fined \$20,000, suspended from association with any NASD member in any capacity for two years, and ordered to requalify by examination before again serving in any registered capacity. The sanctions were based on findings that Trevisan and VanGrouw obtained contingent deferred

sales charge (CDSC) waivers for customers selling Class B mutual fund shares by falsely claiming that the customers were disabled.

This decision has been appealed to the NAC, and the sanctions are not in effect pending consideration of the appeal. (NASD Case #E9B2003026301)

## Complaints Filed

NASD issued the following complaints. Issuance of a disciplinary complaint represents NASD's initiation of a formal proceeding in which findings as to the allegations in the complaint have not been made, and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are unadjudicated, you may wish to contact the respondents before drawing any conclusions regarding the allegations in the complaint.

**Tony Nathan Cota (CRD #4147725, Registered Representative, Clovis, California)** was named as a respondent in an NASD complaint alleging that he entered into a personal loan with a public customer in violation of NASD Rule 2370 and his member firm's written policies, and concealed the loan from his firm on a representative questionnaire. The complaint alleges that Cota caused \$9,615.39 to be withdrawn from a customer's variable annuity account, and \$7,500 to be transferred and deposited into the customer's checking account without her knowledge, authorization or consent, thereby misusing customer funds. The complaint also alleges that Cota failed to respond to NASD requests for information and to appear for an on-the-record interview. (NASD Case #20060043565-01)

**Richard Wayne Mentz Jr. (CRD #2150829, Registered Principal, Scottsdale, Arizona)** was named as a respondent in an NASD complaint alleging that he provided a public customer with new account and margin account documents to sign that contained inaccurate financial information, including the customer's net worth, and misstated the customer's investment objectives. The complaint alleges that Mentz executed transactions in the customer's account that were excessive in number and frequency, and the purchases were made with the use of margin and were unsuitable in light of the customer's financial situation

and needs, his investment objectives and his other security holdings. The complaint also alleges that Mentz, directly or indirectly, by the use of the means or instrumentalities of interstate commerce or of the mails, knowingly or recklessly used or employed, in connection with the purchase or sale of securities, manipulative or deceptive devices or contrivances; and knowingly or recklessly effected transactions in, or induced the purchase or sale of, securities by means of manipulative, deceptive or other fraudulent devices or contrivances. (NASD Case #2005001087801)

**Joey N. Perez (CRD #4739449, Registered Representative, Houston, Texas)** was named as a respondent in an NASD complaint alleging that as a bank service representative, he serviced a public customer and issued him a bank debit card. The complaint alleges that Perez issued a second debit card in the name of the customer's wife without the customer's or his wife's knowledge or authorization. The complaint also alleges that instead of giving the debit card to the customer or his wife, Perez maintained possession of it and gave the card to an acquaintance unrelated to the customer who subsequently used the card on numerous occasions, resulting in unauthorized aggregate withdrawals of \$13,744. The complaint further alleges that Perez failed to respond to NASD requests for information. (NASD Case #2006005690401)

**Jeffrey Charles Plunkett (CRD #2731884, Registered Principal, Tulsa, Oklahoma)** was named as a respondent in an NASD complaint alleging that he drew checks against accounts public customers owned, forged the customers' signature on each check and cashed the checks without the customers' authorization, knowledge or consent, thereby converting approximately \$539,252 to his own use and benefit. The complaint alleges that Plunkett transferred \$73,189 from one public customer's account to another customer's account without the first customer's authorization, knowledge or consent. The complaint also alleges that Plunkett failed to respond to NASD requests for information. (NASD Case #2005003235201)

**David Alexander Ricca (CRD #3202131, Registered Representative, Clifton, New Jersey)** was named as a respondent in an NASD complaint alleging that he received \$25,000 in loans from a public customer in

contravention of his member firm's written procedures, which prohibited employees from borrowing or lending money to customers. The complaint alleges that Ricca received \$25,000 from another customer for investment purposes, documented the receipt of the funds as a loan to him, failed to apply these funds as directed, and converted the funds for his own use and benefit. The complaint also alleges that Ricca failed to respond to NASD requests for information and documents. (NASD Case #2006004672701)

Todd William Sens (CRD #2558107, Registered Representative, Robbinsdale, Minnesota) was named as a respondent in an NASD complaint alleging that he received \$3,528.60 from a public customer to pay life insurance premiums and instead used the funds for his personal benefit, thereby converting the funds for the purchase of non-securities products. The complaint alleges that Sens failed to respond to NASD requests for information. (NASD Case #20060050165-01)

#### **Firms Suspended for Failure to Supply Financial Information**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Hunting Party Securities, Ltd.  
Stamford, Connecticut  
(April 18, 2007)

NMP Capital, LLC  
Kansas City, Missouri  
(April 18, 2007 – April 27, 2007)

Seaway Investment Company, Inc.  
Muskegon, Michigan  
(April 18, 2007)

Starboard Capital Markets, LLC  
Moorestown, New Jersey  
(April 18, 2007)

Windship Capital Markets, LLC  
Lawrenceville, Georgia  
(April 18, 2007)

#### **Firm Suspended for Failing to Pay Arbitration Award**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Great Eastern Securities, Inc.  
New York, New York  
(April 5, 2007)

#### **Firm Suspended Pursuant to NASD Rule 9553 for Failure to Pay Arbitration Fees**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Solomon Advisors  
Dallas, Texas  
(April 16, 2007 – April 27, 2007)

#### **Individual Suspended Pursuant to NASD Rule 9553 for Failure to Pay Arbitration Fees**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Jeffrey Matthew Jenovese  
Heathrow, Florida  
(April 23, 2007)

#### **Individuals Revoked for Failing to Pay Fines and/or Costs in Accordance with NASD Rules 8320**

Patrick Alexander Anthony  
Los Angeles, California  
(April 23, 2007)

James Edward Cleary Jr.  
Aventura, Florida  
(April 23, 2007)

**Individuals Barred Pursuant to NASD Rule 9552(h)**

**Christopher Mark Ostoich**  
Ft. Wright, Kentucky  
(April 2, 2007)

**Jon Manuel Palacios**  
San Bernardino, California  
(April 4, 2007)

**Cass Lamar Weldon**  
Bossier City, Louisiana  
(April 5, 2007)

**Individuals Suspended Pursuant to NASD Rule 9552(d)**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

**Michael Edward Armentrout**  
Washington, DC  
(April 2, 2007)

**Eric James Brown**  
Highland Beach, Florida  
(April 24, 2007)

**Shawn Clay**  
Charlevoix, Michigan  
(April 16, 2007)

**Michael L. Donaldson**  
Jamaica, New York  
(August 29, 2006 – April 16, 2007)

**Sherman Edd Douglas**  
Mobile, Alabama  
(April 23, 2007)

**James Jameke Eady**  
Brooklyn, New York  
(April 9, 2007)

**Charles Stephen Farrell III**  
Charlotte, North Carolina  
(November 29, 2006 – April 16, 2007)

**Nicholas David Glogovac**  
Los Angeles, California  
(April 9, 2007)

**Angel R. Gomez**  
SW Ranches, Florida  
(April 9, 2007)

**Matthew Jason Hamm**  
Spartanburg, South Carolina  
(September 20, 2006 – April 16, 2007)

**Calvin L. Kelle**  
Quincy, Illinois  
(April 17, 2007)

**Alethea Outing Ramey**  
Charlotte, North Carolina  
(April 30, 2007)

**William Earl Rice Jr.**  
Humble, Texas  
(December 18, 2006 – April 16, 2007)

**Lewis Taylor Smith**  
Tucson, Arizona  
(December 6, 2006 – April 16, 2007)

**Deanna Louise Snodgrass**  
Tucson, Arizona  
(April 24, 2007)

**Lori Elizabeth Zoval**  
Stateline, Nevada  
(April 9, 2007)

**Individuals Suspended Pursuant to NASD Rule 9554 for Failure to Comply with an Arbitration Award or Settlement Agreement**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

**Vladimir Alexeyvich Belinsky**  
Orinda, California  
(April 16, 2007)

**Carl Edward Cherasia**  
Toms River, New Jersey  
(April 12, 2007)

**Gary Dean Dennington**  
Overland Park, Kansas  
(April 2, 2007)

**A. Maximiliano Duarte**  
Los Angeles, California  
(April 20, 2007)

**Izaill Ezekiel Fields**  
Brooklyn, New York  
(April 2, 2007)

**Jared Evan Fink**  
Coral Springs, Florida  
(April 2, 2007)

**Francisco Galvan**  
Stockton, California  
(April 2, 2007)

**Mark Goldberg**  
Middle Village, New York  
(April 20, 2007)

**Melissa Ann Holovach**  
Tampa, Florida  
(April 12, 2007)

**Patrick Robert Kelley**  
Sacramento, California  
(April 27, 2007)

**Manuel Andres Larenas**  
Altamonte Springs, Florida  
(April 2, 2007)

**Robert Thomas Loftin III**  
Tinley Park, Illinois  
(April 13, 2007)

**Glenn S. Lorantas**  
Yardley, Pennsylvania  
(April 12, 2007)

**Luis Gabriel MacDonna**  
Mount Vernon, New York  
(April 2, 2007)

**Jeffrey Allan Mascio**  
Highlands Ranch, Colorado  
(October 9, 2006 – April 24, 2007)

**Radion Felitivich Medvedovsky**  
Brooklyn, New York  
(April 2, 2007)

**Franklyn Ross Michelin**  
Boca Raton, Florida  
(April 2, 2007)

**Kyle Browning Rowe**  
Dallas, Texas  
(April 27, 2007)

**Robert John Vitale**  
Parkland, Florida  
(April 2, 2007)

**Vincent John Zerbo**  
Staten Island, New York  
(April 2, 2007)

### **NASD Hearing Panel Sanctions Former Knight Securities Executives for Supervisory Failures in Connection with Fraudulent Sales**

**Former CEO Fined, Suspended; Former Sales Desk Head Fined, Barred as Supervisor**

An NASD Hearing Panel issued \$100,000 fines against Kenneth Pasternak, former CEO of Knight Securities, L.P. (now known as Knight Equity Markets, L.P.), and John Leighton, former head of the firm's Institutional Sales Desk, for supervisory violations in connection with fraudulent sales to institutional customers in 1999 and 2000.

In addition, Pasternak was suspended in all supervisory capacities for two years, while Leighton was barred in all supervisory capacities.

In March 2005, NASD's Department of Market Regulation charged Pasternak and Leighton with failure to supervise the firm's leading institutional sales trader, Joseph Leighton, who is John Leighton's brother. The NASD complaint also charged Pasternak with failing to establish and enforce a supervisory system designed to ensure compliance with federal securities laws and NASD rules.

In a 2-1 ruling, the panel found that Pasternak and John Leighton failed to supervise Joseph Leighton's trading activities. "For all intents and purposes, Joseph Leighton ran the Institutional Sales Department as he saw fit," the majority ruling says. "Pasternak, John Leighton, and Joseph Leighton each concluded that as long as the customers did not learn of the extraordinary profits

Knight earned on their orders, there was no limit to the amount the firm could make on an institutional order.”

The majority also found that Pasternak’s response to numerous red flags was “woefully inadequate,” that Pasternak and John Leighton “never questioned Joseph Leighton’s activities or confirmed he was providing his customers with best execution and a fair price,” and that the overall supervisory void “allowed Joseph Leighton to take advantage of his customers over a 21-month period by filling orders at prices that netted Knight unreasonably high profits.”

In April 2005, Joseph Leighton agreed to a bar from the securities industry and a payment of more than \$4 million to settle charges by the Securities and Exchange Commission (SEC) and NASD that he made millions of dollars in fraudulent trades with Knight’s institutional customers. The SEC and NASD found that Joseph Leighton generated excessive profits by pricing trades with institutional customers in a manner contrary to customers’ expectations and industry custom, and using deceptive trading practices to disguise both his pricing and the amount of Knight’s profits.

In December 2004, Knight paid more than \$79 million to settle SEC and NASD charges against the firm arising from Joseph Leighton’s fraudulent and deceptive conduct.

More than \$3.3 million of Joseph Leighton’s monetary sanction and more than \$66 million of the firm’s monetary sanction was paid into a Fair Fund established by the SEC to compensate investors harmed by Joseph Leighton’s fraud.

Pasternak and Leighton have appealed this decision to the NAC.

### **NASD and Chicago Stock Exchange Fine and Suspend Traders for Cross-Market Manipulation**

#### **Traders Artificially Increased Price of Stock in Two Markets**

Following a joint investigation, NASD and the Chicago Stock Exchange (CHX) announced fines and suspensions against two traders for artificially inflating the price of the stock of Material Science Corporation (MSC), a New

York Stock Exchange-listed company, in connection with MSC’s repurchase of its stock.

NASD imposed a \$25,000 fine and a three-month suspension on Klaus Offenbacher, a trader with NASD-registered First Analysis Securities Corporation of Chicago. Offenbacher is receiving credit for a 60-day suspension already imposed by his employing firm. Officials at First Analysis Securities detected the cross-market manipulation on the date it occurred and thereafter reported it to NASD.

CHX imposed a \$20,000 fine and a two-month suspension on Bruce Kaminski, a floor broker with Dougall & Associates of Chicago, a CHX Participant firm.

Neither MSC, First Analysis Securities Corporation nor Dougall & Associates had knowledge that Offenbacher and Kaminski planned to artificially increase the price of MSC stock.

“Increasingly, trading volume is dispersed across multiple markets, with actions on each market affecting prices on the other markets,” said Thomas Gira, NASD Executive Vice President for Market Regulation. “The cooperation between the Chicago Stock Exchange and NASD on this matter demonstrates our ability and willingness to detect and investigate improper cross-market activities.”

“By working together, NASD and the Chicago Stock Exchange were able to discipline all the responsible individuals,” said CHX Chief Regulatory Officer David Whitcomb. “This type of cooperation is essential in our increasingly connected markets.”

The regulators’ joint investigation found that Offenbacher was responsible for repurchasing MSC stock on the issuer’s behalf pursuant to the company’s stock repurchase program. MSC wanted its repurchases to fall within the safe harbor provision of the Securities and Exchange Commission’s (SEC) rule governing issuer buy-backs, which provides that issuer purchases cannot be the opening purchase of the day and cannot exceed the highest independent bid or last independent transaction price.

The regulators found that on August 21, 2006, Offenbacher received authorization from MSC to repurchase 100,000 shares of MSC stock pursuant to

the repurchase program. The same day, Offenbacher located an institutional customer willing to sell a 174,300-share block of MSC stock with a limit price of \$9.90. Later that day, Offenbacher attempted to contact the principals of MSC to get approval to purchase the entire block. MSC stock closed that day at a price of \$9.80 per share. Early the following day, Offenbacher received approval from MSC's principals to purchase the block at \$9.90 per share. Before the market opened, Offenbacher directed Kaminski to purchase 1,000 shares of MSC stock at \$9.90 per share, in the event MSC opened below \$9.90 per share. When MSC opened at \$9.75 per share, Kaminski executed the 1,000 share transaction at \$9.90 per share which artificially drove the stock's price up 15 cents to the level Offenbacher needed to execute the cross trade.

Kaminski's execution of the 1,000-share transaction on the New York Stock Exchange established an artificial reference price at which the larger block transaction was then executed on the CHX. As a result, the regulators found that Offenbacher and Kaminski knowingly and intentionally artificially increased the market price of MSC stock in an attempt to make it appear that the purchase fell within the SEC's safe harbor provision for issuer buy-backs.

In settling this matter, Offenbacher neither admitted nor denied the charges, but consented to the entry of NASD's findings that his conduct violated NASD's anti-fraud rule and other NASD rules. Similarly, Kaminski neither admitted nor denied the charges, but consented to the entry of the CHX's findings that his conduct violated the CHX's anti-fraud rule and other CHX rules.

Offenbacher's suspension in any capacity was in effect from April 16, 2007, through May 15, 2007.